

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

DIAMOND GRADING TECHNOLOGIES	§	
INC.	§	Case No. 2:14-cv-1161-RWS-RSP
	§	
v.	§	LEAD CASE
	§	
AMERICAN GEM SOCIETY et al.	§	

ORDER ADOPTING REPORT AND RECOMMENDATION

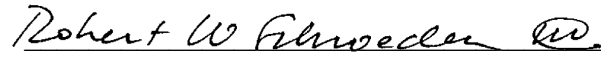
Currently before the Court is the Report and Recommendation of United States Magistrate Judge Roy S. Payne (Docket No. 83) regarding Defendant Gemological Institute of America, Inc.’s (“GIA”) Motion for Judgment on the Pleadings (Docket No. 46) and Defendants American Gem Society and American Gem Society Laboratories, LLC’s (collectively, “American Gem Society”) Motion for Joinder in GIA’s Motion for Judgment on the Pleadings (Docket No. 52). The Magistrate Judge recommends denying GIA’s Motion for Judgment on the Pleadings because factual matters outside the pleadings are raised in the motion. Docket No. 83 at 9. The Magistrate Judge concludes that these issues would be more appropriately addressed in a motion for summary judgment and recommends that GIA be granted leave to file a motion for summary judgment. *Id.* Further, the Magistrate Judge recommends denying American Gem Society’s Motion for Joinder as moot because American Gem Society is no longer a party to this case. *Id.* No objections to the Report and Recommendation have been filed.

Accordingly, the findings and conclusions of the Magistrate Judge are **ADOPTED** as those of the Court. It is **ORDERED** that GIA’s Motion for Judgment on the Pleadings (Docket

No. 46) is **DENIED** and that GIA be granted leave to file a motion for summary judgment.

Further, American Gem Society's Motion for Joinder (Dkt. No. 52) is **DENIED AS MOOT**.

SIGNED this 29th day of September, 2016.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE